

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Robert P. Macaulay et al.
Serial No.: 09/723,591
Filed: November 28, 2000
For: Method and Apparatus for
Cloning Terminals in a
Communications Network

§ Art Unit: 2666
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§ Examiner: Robert C. Scheibel
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§ Atty. Dkt. No.: NRC.0008US
§ (13469ROUS01U)
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

INDEPENDENT CLAIMS 1, 3

Applicant respectfully submits that McClung does not disclose each and every element of either claim 1 or claim 3. The Office Action cited various passages of column 9 of McClung as disclosing the subject matter of claim 1. Column 9 of McClung describes a roaming feature that allows a user to temporarily designate one or more telephony devices, in addition to or instead of the user's regularly assigned telephony device, at which the user can receive incoming calls to a particular line number. McClung, 6:42-47.

Starting at line 26 of column 9 of McClung, a description is provided of a procedure in response to a call placed to a roaming line number. The procedure involves an originating telephony device 24d initiating a call to a target IP telephony device 24b (extension "1002"). The call manager 26 of McClung receives the call initiation request and determines, from a mapping table 110, which IP addresses are associated with the line number. McClung, 9:33-37. The call manager 26 then directs the call to telephony devices 24a and 24b (which are both

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associated with extension “1002”). McClung, 9:43-45. A user can take the telephony device(s) off-hook to connect the call. McClung, 9:55-56.

Contrary to the assertion in the Office Action, there is no *need* to access the mapping table again when a user answers by taking a telephony device (24a or 24b) off-hook to connect the call. The Office Action equated the off-hook indication at lines 55-56 of column 9 of McClung as being the second indication recited in claim 1. In fact, the Office Action stated that “it is thus clear that the call manager will access the same profile information (the mapping table) in order to obtain the addresses of the devices to notify them to stop ringing (see lines 59-60 of column 9).” 10/28/2005 Office Action at 5. This assertion in the Office Action is incorrect, since the call manager 26 at this time already knows which telephony devices are ringing, and thus, there is no need for the call manager 26 to again access the mapping table 110 to stop the ringing at the telephony devices. In fact, the mapping table 110 of McClung that is depicted in Fig. 3 of McClung associates extension numbers with IP addresses. The off-hook indication that is used for answering a call clearly does not provide any extension number, and thus, there would clearly be no reason for the call manager 26 to access the mapping table in response to this off-hook indication. Therefore, McClung cannot possibly satisfy the following element of claim 1: in response to the second indication (received from the *second* terminal, which is the *clone* of the *first* terminal), accessing profile information associated with the *first* terminal to process the second indication for establishing the call session between the *second* terminal and the *third* terminal. In view of the foregoing, it is respectfully submitted that clear error has been performed in rejecting claim 1 as being anticipated by McClung.

Claim 3 recites receiving a call request from the second terminal to initiate a call session with a third terminal, and in response to the call request, accessing profile information of the first terminal to establish the call session between the second terminal and third terminal. Note that the second terminal of claim 3 is the terminal that *clones* the *first* terminal. In the example described in McClung, telephony device 24a is considered the clone for telephony device 24b. *See* McClung, 6:47-53. Telephony device 24d is the originating telephony device that sends the call initiation request to the call manager 26. The Office Action cited the call initiation request received from the originating telephony device 24d as being the call request from the second terminal to initiate a call session with a third terminal, as recited in claim 3. *See* 10/28/2005 Office Action at 5. Equating the call request of claim 3 with the call initiation request sent by the

originating telephony device 24d is incorrect, since the originating telephony device 24d is not the device used to clone another device, as described in McClung. In other words, McClung does not disclose receiving a call request from telephony device 24a, and in response to this call request, accessing profile information of telephony device 24b. Therefore, claim 3 is also clearly not anticipated by McClung.

INDEPENDENT CLAIM 37

Claim 37 was rejected as being anticipated by Alexander. The Office Action identified an IP telephony device 24 or 42 depicted in Fig. 1 of Alexander as containing the control unit recited in claim 37. 10/28/2005 Office Action at 8. The Office Action identified telephony software that can be included in an IP telephony device mentioned in column 4, lines 1-8, of Alexander, as being the soft client modules of claim 37. *Id.* The Office Action further stated that “[c]learly, the computer can run one or more of these modules.” *Id.* There is no support for this statement, since Alexander makes no mention whatsoever of multiple soft client modules executable on any IP telephony device. More significantly, Alexander is completely silent on the fact that the *multiple soft client modules* become *clones of respective terminals*. As further purported support for the rejection, the Office Action cited column 12, lines 55-65, of Alexander. Note, however, that this cited passage teaches that multiple IP telephony devices can be used to remotely access and edit a telephony device’s alternate number list. There is no teaching here of multiple soft client modules that can become clones of respective terminals.

The Office Action argued that setting a ring delay time in an alternate device table to zero to allow both an original device and a cloning device to be rung simultaneously is equivalent to cloning devices by plural soft clients. 10/28/2005 Office Action at 2-3. The ringing of two separate devices simultaneously (or not simultaneously) has no bearing on the subject matter of claim 37. The ringing of separate devices simultaneously does not disclose soft client modules executable on a control unit that are clones of respective terminals.

The Office Action further argued that Alexander discloses that the IP telephony device is capable of running Microsoft® telephony software. 10/28/2005 Office Action at 3. There is no teaching that the Microsoft® telephony software can be clones of respective terminals.

Therefore, claim 37 is clearly not anticipated by Alexander.

INDEPENDENT CLAIM 16

Independent claim 16 was rejected as being obvious over Alexander and “AAPA.” The Office Action conceded that Alexander fails to disclose associating a first logical port between a telephony proxy server and a switch module with both the first and second terminals, and forwarding, by the switch module, the call request through the first logical port to the telephony proxy server. 10/28/2005 Office Action at 12. The Office Action cited “AAPA” as disclosing use of logical ports between a TPS and a switch. Although the Background section of the present application mentions that a logical port can be reserved in a switch for a telephony client, there is absolutely no suggestion in the Background section of the present application, or in Alexander, of associating a first logical port between a TPS and a switch module with *both* the first and second terminals. Moreover, there is no suggestion in the Background section of the present application of forwarding, by the switch module, the call request (which specifies the second terminal) through the first logical port to the telephony proxy server.

The Office Action referred to column 7, lines 19-21, of Alexander as supporting the combination of Alexander and AAPA. 10/28/2005 Office Action at 13. Specifically, the Office Action referred to the teaching in Alexander regarding the call manager function being distributed throughout each LAN 20 on various IP telephony devices. This teaching of Alexander has nothing to do with the recited subject matter of claim 16. It is unclear to Applicant why a teaching regarding distributing a call manager function on multiple IP telephony devices throughout an LAN would have anything to do with associating a first logical port between a telephony proxy and a switch module with *both* first and second terminals, as recited in claim 16. Clearly, a person of ordinary skill in the art would not have been motivated to modify Alexander based on the teachings of “AAPA.” Therefore, it is respectfully submitted that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claim 16. *See* M.P.E.P. § 2143 (8th ed., Rev. 3), at 2100-135.

INDEPENDENT CLAIM 23

Independent claim 23 was rejected as being obvious over Alexander, “AAPA,” and O’Neal. The Office Action conceded that Alexander does not disclose storing a table associating identifiers of the first and second terminals with a first logical port. 10/28/2005 Office Action at 15. However, the Office Action relied upon “AAPA” as disclosing the use of a logical port. However, “AAPA” does not suggest storing a table associating identifiers of both first and

second terminals with a first logical port. Based on the discussion above with respect to claim 16, it is respectfully submitted that no motivation or suggestion existed to combine the teachings of Alexander and "AAPA," and thus the obviousness rejection over Alexander, "AAPA," and O'Neal is also defective.

Moreover, the Office Action conceded that Alexander and "AAPA" do not teach updating a table to indicate that one of the first and second terminals that answered the call requests is the terminal to which subsequent call requests containing the first logical identifier are to be directed. 10/28/2005 Office Action at 16. However, the Office Action cited O'Neal as teaching this element. Specifically, the Office Action pointed to column 12, lines 54-57, of O'Neal as teaching this recited element. The cited passage refers to the "follow me" service that uses the number where the subscriber was last located (stored in memory) as the first number to dial in the sequence. Note, however, that even O'Neal does not teach or suggest updating a *table* (that associates identifiers of first and second terminals with a first logical port) to indicate that one of the first and second terminals that answered the call request is the terminal to which subsequent call requests containing the first logical identifier are to be directed.

The Office Action further stated that Alexander discloses a use of an alternate device table, and thus, this alternate device table of Alexander would be used in the combination of Alexander, "AAPA," and O'Neal. 10/28/2005 Office Action at 4. This type of rejection in which elements of prior art references are piece-meal combined without regard to any motivation or suggestion to make the proposed combination is a classic example of impermissible hindsight. In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 23.

CONCLUSION

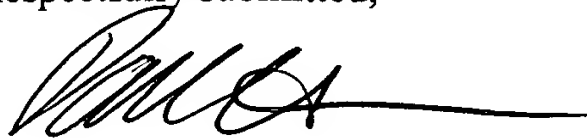
In view of the allowance of base claims, it is respectfully submitted that the obviousness rejections of the dependent claims have been overcome.

In view of the foregoing, it is respectfully requested that the final rejections of the claims be withdrawn.

Date: _____

2-28-2006

Respectfully submitted,



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